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April 10, 2019

By CM/ECF

The Chambers of the Honorable Judge Sanket J. Bulsara
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Elliott v. Donegan, et al.*, No. 1:18-civ-05680-LDH-SJB

Dear Judge Bulsara,

I write on behalf of Plaintiff Stephen Elliott and Defendant Moira Donegan in advance of the initial conference and discovery hearing scheduled in this matter for April 12, 2019. We have met and conferred pursuant to the Court's Scheduling Order, and we have reached agreement on several issues. For that reason, and for those that follow, counsel to Mr. Elliott and Ms. Donegan respectfully request that the Court accept this letter in lieu of the Discovery Plan Worksheet.

First, without prejudice to her right to file a motion to quash or to raise any and all defenses in any other proceeding, Ms. Donegan consents to the service of Mr. Elliott's proposed subpoena on Google as filed on March 22, 2019 (Docket No. 25-1, the "Google Subpoena").

Second, the parties agree that it would be proper to temporarily delay all other discovery. This would be consistent with Judge DeArcy Hall's statements during the March 1, 2019 conference. It would also accord with the parties' shared interest in a fair and orderly discovery process, which is not possible while substantial uncertainty persists as to the identity of the currently-unknown Jane Doe Defendants (who are, in turn, unable to effectively represent their own interests). Accordingly, the parties respectfully request that the Court defer all discovery other than service of the Google Subpoena, pending a resolution of any enforcement proceedings related to that subpoena and a production by Google in response to the subpoena (if any).

Third, given the highly sensitive nature of the factual allegations at issue, the parties will negotiate and file—by May 3, 2019—a proposed protective order to govern discovery in this case. We recognize that, pursuant Your Honor's Individual Practices Rule III.C, we should work from the Confidentiality Order Form and submit any proposed changes for the Court's review.

Finally, Mr. Elliot and Ms. Donegan have stipulated that the date for exchanging initial disclosures under Federal Rule of Civil Procedure 26(a)(1) will be extended to within two weeks after the return date of the Google Subpoena.

We look forward to discussing this proposal with Your Honor on April 12, and we are grateful to the Court for taking it under advisement.¹

Respectfully submitted,



Roberta A. Kaplan, Esq.
Kaplan Hecker & Fink LLP

Counsel for Defendant Moira Donegan

¹ We also advise the Court that Ms. Donegan has recently filed a letter before Judge DeArcy Hall stating her intent to file a motion to dismiss and requesting a pre-motion conference, which we attach as Exhibit A.